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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/778,904	02/08/2001	Kenji Soga	Q63103	5846
7590 01/25/2005 SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3202			EXAMINER BLOUNT, STEVEN	
			ART UNIT 2661	PAPER NUMBER

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application N .

09/778,904

Applicant(s)

SOGA, KENJI

Examiner

Steven Blount

Art Unit

2661

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 - 17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 3, 5 - 9, 11 - 17 is/are rejected.
- 7) ☒ Claim(s) 4 and 10 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

2. Claims 1 and 7 are rejected under 35 U.S.C. 102(a) as being anticipated by PCT publication 99/53719 to Golden.

With regard to both of these claims, Golden teaches a route design system wherein "a map of paths between endstations" (designing a plurality of different route candidates from the starting node to the terminal node) and a means for accommodating a demand in one of the routes (via the centralized control point). See the abstract.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 3, 5 – 9, and 11 – 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. patent 5,687,167 to Bertin et al.

With regard to claim 1, Bertin et al teach designing route candidates in col 13

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lines 20+ (fwd, bkwd) and col 14, lines 25+ (searching paths). See also col 12 lines 15+ and col 10, lines 38+. Bertin also teaches that it is determined whether sufficient bandwidth is available to accommodate demand in col 13, lines 37+. Although the means for designing the different routes is not explicitly termed a "route candidate design means" in Bertin, one of ordinary skill in the art would find it obvious that the system taught in Bertin would cover a "route candidate design means".

With regard to claim 2, bandwidth assignment is taught in col 10, lines 44+, and priority is taught in col 9 lines 24+.

With regard to claim 3, accommodating 2<sup>nd</sup> priority if there is not sufficient bandwidth in the first priority is taught in col 14, lines 20+.

With regard to claim 5, bandwidth assignment is discussed above; bandwidth distribution is taught in col 13, lines 47 – 48, and priority is discussed above.

With regard to claim 6, see col 13, lines 37+ and col 14, lines 24+.

With regard to claims 7 – 9 and 11 - 12, see the rejections above, where all of the method steps are discussed in the body of the apparatus rejections.

With regard to claim 13, note that in col 14 lines 28+, it is stated that low priority connections release their bandwidth, which would presumably be accomplished by a secondary accommodation design unit in addition to the primary accommodation design unit which operates on the route candidate of first priority.

With regard to claim 14, see the discussion of accommodating bandwidth as discussed above.

With regard to claim 15, see the discussion of bandwidth accommodation above.

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With regard to claims 16 – 17, the claimed features are all discussed above.

5. Claims 4 and 10 are objected to as being dependent upon rejected base claims, but would be allowable if rewritten to include the limitations of the base claims and any intervening claims.

6. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231


Or, the response may be faxed to: (703) 872-9306.

For formal communications intended for entry, or for informal or draft communications, please label "PROPOSED" OR "DRAFT".

Any inquiry concerning this communication should be directed to Examiner Steven Blount, whose telephone number is (571) 272 – 3071.

Examiner Blount may normally be reached Monday through Friday between the hours of 9:00 and 5:30. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Mr. Chau Nguyen, may be reached at (571) 272 – 3078.

  
Ajit Patel  
Primary Examiner

SB  
  
1/14/04